



CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

DATE/TIME: **Monday, June 15, 2009**
 7:00 p.m.

LOCATION: **Police Department Auditorium**
 870 Santa Barbara Drive

Roll Call

1. Minutes of April 20, 2009 (*attachment*)
2. Report from Subcommittee on NOP for Megonigal Residence (2333 Pacific Drive) and review and approval of comments (*Subcommittee report attached*)
3. Report from Subcommittee on NOP for Sunset Ridge Park (4850 West Coast Highway) and review and approval of comments (*Subcommittee report attached*)
4. Recommendation to City Council to appoint Jay Myers to Community Associations vacancy on EQAC (*Application attached*)
5. Task Force on Green Development Representatives' Report
6. Coastal/Bay Water Quality Committee Representatives' Report
7. Economic Development Committee Representative's Report
8. Report from Staff on Current Projects
9. Public Comments
10. Future Agenda Items
11. Adjournment

NEXT MEETING DATE:* *July 20, 2009

*Attachments can be found on the City's website <http://www.city.newport-beach.ca.us>. Once there, click on **Agendas and Minutes** then scroll to and click on **Environmental Quality Affairs**. If attachment is not on the web page, it is also available in the City of Newport Beach Planning Department, 3300 Newport Boulevard, Building C, 2nd Floor.



CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

DRAFT MINUTES 4-20-09

Draft minutes of the Environmental Quality Affairs Committee held at the City of Newport Beach City Council Chambers, 3300 Newport Boulevard, on **Monday, April 20, 2009.**

Members Present:

X	Nancy Gardner, Council Member	E	Barbara Thibault
X	Michael Henn, Council Member	X	Laura Curran
X	Kenneth Drellishak, Chair	X	Vincent Lepore
X	Kimberly Jameson	X	Kevin Nolen
X	Kevin Kelly	X	Arlene Greer
X	Michael Pascale	X	Sandra Haskell
X	Michael Smith	X	Kristine Adams
X	Jeff Herdman	X	Timothy Stoaks
	Nick Roussos		
X	Joan Penfil	X	Charles McKenna
E	Bruce Asper	X	Ray Halowski
X	Merritt Van Sant	X	Michael Alt

Staff Representatives:

Guests:

X	Sharon Wood, Assistant City Manager	Philip Bettencourt AERIE Team
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Chairperson Ken Drellishak called the meeting to order at 7:06 p.m.

1. Minutes of March 16, 2009

Ray Halowski moved to approve the minutes of March 16, 2009, with a correction showing Nick Roussos as present. Sandra Haskell seconded the motion.

Motion passed unanimously

Chairperson Drellishak announced that agenda item 3 would be taken next, because the AERIE project applicant team was present.

3. Report from Subcommittee on DEIR for AERIE project

The Committee reviewed and made revisions to the subcommittee report. Arlene Greer moved that the report be approved as amended. Ray Halowski seconded the motion.

Motion passed unanimously

2. Report from Subcommittee on DEIR for Marina Park

The Committee reviewed and made revisions to the subcommittee report. Arlene Greer moved that the report be approved as amended. Ray Halowski seconded the motion.

Motion passed unanimously

4. Report from Subcommittee on NOP for Newport Banning Ranch

The Committee reviewed and made revisions to the subcommittee report. Arlene Greer moved that the report be approved as amended. Ray Halowski seconded the motion.

Motion passed unanimously

5. Report from Subcommittee on NOP for City Hall and Park project

Kevin Kelly moved that the report be approved as presented. Vincent Lepore seconded the motion.

Motion passed unanimously

6. Task Force on Green Development Representative's Report - No report.
7. Coastal/Bay Water Quality Committee Representative's Report - No report.
8. Economic Development Committee Representative's Report - No report.
9. Report from Staff on Current Projects - No report.
10. Public Comments - None.
11. Future Agenda Items - None.
12. Adjournment

Chairperson Drellishak adjourned the meeting at 9:45 p.m.

James Campbell, Principal Planner
Planning Department
City of Newport Beach
Newport Beach, CA 92658-8915

June 15, 2009

Dear Mr. Campbell:

The Environmental Affairs Citizens Advisory Committee (EQAC) is pleased to accept your invitation to comment on the Notice of Preparation (NOP) and Initial Study (IS) for the Megonigal Residence (PA-2007-133).

The NOP identified three areas with potentially significant environmental impacts (Aesthetics, Biological Resources and Land Use & Planning) that will be addressed in the EIR. However, the IS discusses three related areas that appear to need further evaluation in the EIR.

Bluffside Stability

Two properties on Bayside Drive below the proposed project are vulnerable to any hillside instability due to erosion associated with stormwater runoff during the construction and operational phases of the project and hillside irrigation during the operational phase. These issues are discussed on pages 24-28 of the IS under Hydrology and Water Quality. Under item d (page 25) the IS states the addition of only 2300 square feet of impervious surfaces “will not significantly alter existing drainage conditions”. However, construction on the hillside will lead to potentially dangerous new drainage patterns and stormwater runoff mitigation on the Begonia Street level must assure that all runoff is diverted away from the hillside to eliminate the potential for erosion.

This whole section focused on dealing with additional stormwater runoff associated with the addition of 2300 square feet of impervious surfaces. The IS does not acknowledge that hillside construction may make it necessary to divert all stormwater runoff to avoid hillside erosion. Even though the hillside may be stable now for storm conditions, it must be shown that new construction does not add additional erosion risk.

Finally, the IS does not deal with potential problem of hillside erosion due to irrigation of the hillside vegetation during the operational phase.

Land Use

The proposed project involves a significant amount of bluffside modification (excavation, shoring walls, auger drilling, caisson construction etc.) to accommodate a three-story residence. There is no discussion of how much of the construction will be below street level down the bluffside. Is there any issue with compliance with city requirements related to the predominant line of existing development (PLOED) on the bluffside?

Noise

Page 30 of the IS shows a list of construction equipment to be used on the project. These all are shown to have average sound levels well above the applicable city noise standards. Mitigation measures MM-10,11 and 12 are proposed on page 31, but none of these will eliminate the construction noise from equipment listed in the table. Therefore, the assertion under item d (page 29) of “Less than significant with Mitigation Incorporated” is not supportable. Construction related periodic ambient noise increases should be listed as Significant and Unavoidable unless there is a analysis to prove that the construction equipment noise levels at adjacent properties (on Begonia and Bayside) are within city noise standards.

NOP Typos:

- Page 1 2nd Paragraph: “San” needs to be deleted; 1st sentence is incomplete.
- Page 1 last paragraph: Insert comma after “date” comma after “project”.
- Page 1 2nd Paragraph
- Page 2 Last Paragraph: Surrounding needs to be changed to surrounded

Patrick Alford, Planning Manager
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, California 92658

Dear Mr. Alford:

The Environmental Quality Affairs Committee ("EQAC") thanks you for the opportunity to comment on the Notice of Preparation ("NOP") for the Sunset Ridge Park Project ("Project") and the scope and content of the Program Environmental Impact Report ("EIR") that the City plans to prepare.

EQAC's comments are outlined below and relate to a number of areas.

(I) "CONSISTENCY"/ALTERNATIVES

The NOP states that "consistency" with several elements of the General Plan Update ("GPU") will be addressed. It must be noted that the GPU was not very specific about *most* projects as it was written. That was one of EQAC's concerns when the EIR came up for the GPU. EQAC's concerns included the fact that, where the GPU did not address most anticipated development with *specificity* and instead deferred the specificity to the days when a project's EIR came through, applicants would use the passing of the GPU as "authority" for their development (or significant parts thereof) and circumvent the full level of necessary scrutiny. It is as if the phrase "consistent with General Plan" actually means "challenges are futile because it has already been approved by the voters." Yet, the voters were not given the full picture because the full picture was deferred to another day.

Some of that has occurred with Sunset Ridge, where the City maintains that the citizens "voted" on the park in the *full* form of the currently proposed design and development by simply referring to the GPU as approving an "active" park. The term "active" was in the GPU, but it did not say "active sports park." Yet, claims have been made that the GPU approved a park design with 90% devoted to sports fields.

In light of the lack of specificity provided in the GPU, the acceptability of a particular impact (and the very scale of the Project) should not be established by the claim that it is "consistent" with the GPU. And, the EIR should seriously study and consider alternatives, as required by CEQA standards, rather than defaulting to the proposed plan in its full form simply because of the claimed "consistency."

An EIR must describe a reasonable range of alternatives to the Project that could feasibly attain most of the objectives of the Project while avoiding or

substantially lessening any of the significant effects of the Project. 14 Cal. Code Regs., § 15126.6.

(II) CUMULATIVE IMPACTS

In EQAC's review of the GPU, the committee saw that cumulative impact analyses were neglected on the basis that they would be looked at when the individual project EIR's came through. Unfortunately for the environment, this piecemeal approach allows each EIR analysis to be done in something of a vacuum.

Additionally, with Sunset Ridge, all of the preliminary studies and "town hall" meetings dismissed the use of future Banning Ranch Development for a sports park (instead of cramming so much into Sunset Ridge) on the basis that Banning Ranch Development was just a glimmer in someone's eye. Yet, the NOP for Banning Ranch has already been issued, and the EIR is already underway.

In terms of cumulative impact, all of the many residential areas affected by Sunset Ridge (including but not limited to Newport Crest) are at the same time (or at least in the same immediate continuum) exposed to all of the environmental impacts of Banning Ranch Development. Because of the proximity in time and location, the environmental effects of these two Projects ***should be considered together***. Alone, each Project significantly and vastly changes the entire area. Together, they ***replace*** the area of West Newport as it is known today. Such a grand scale of development presents a grand scale of environmental impacts -- of ***every*** nature. The respective EIR's for each Project should accordingly be grounded in the grand scale of development and environmental impacts.

Under the California Environmental Quality Act, "[t]he full environmental impact of a proposed ... action cannot be gauged in a vacuum." *Whitman v. Board of Supervisors* (1979) 88 Cal.App.3d 397, 408. Thus, "[t]he requirement for a cumulative impact analysis must be interpreted so as to afford the fullest possible protection of the environment within the reasonable scope of the statutory and regulatory language." *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421, 431-432. Therefore, "[i]t is vitally important that an EIR avoid minimizing the cumulative impacts. Rather, it must reflect a conscientious effort to provide public agencies and the general public with adequate and relevant detailed information about them." *Id.* at 431.

(III) STREETS/HIGHWAYS

The NOP for the Banning Ranch Development addressed the anticipated addition/extension of one or more streets located in and around the Newport Crest community (and directly related to Sunset Ridge park). The Sunset Ridge NOP does not mention this anticipated addition/extension of one or more streets – instead, it mentions an access road at Banning Ranch as a static, settled issue.

This illuminates a conflict in the data for each Project. Further, please note that the Banning Ranch NOP states that the “General Plan Circulation Element Master Plan of Streets and Highways” might have to be amended to accommodate the addition/extension. Because the two Projects are intertwined on this issue, the conflict should be thoroughly addressed in the Sunset Ridge EIR.

(IV) DISPARATE IMPACTS ON NEWPORT CREST RESIDENTS

The proposed design of the Project creates more construction-related and operational (long-term security, noise, visual, and other) impacts for some of the park-facing locations in the Newport Crest community than it does for other park-facing locations in the Newport Crest community. For example, the distance between the park and the homes at Newport Crest is significantly less at the areas closer to Superior than for the homes closer to the Banning Ranch side. At a minimum, the NOP should address and explain the justification for why the City is imposing more of the burden on some homes/residents than others, simply in the name of park design aesthetics.

(V) ELEMENTS

Hazards

Oil operations at Banning Ranch are within ¼ mile of the Project site. Two abandoned oil wells are within the limits of grading for the Sunset Ridge park access road.

In addition to addressing the hazards specific to the Sunset Ridge Project’s development, the neighboring hazards must be addressed. Oil extraction activities at Banning Ranch date back at least 75 years (General Plan, p. 3-68). Under the proposed development at Banning Ranch, oil production will be allowed to continue within about 20 acres of the Project site within two specific consolidation sites. That will affect Sunset Ridge. Given the historic oil production at the site and the expected continuation of oil production, the EIR will need to consider whether the existing oil infrastructure would create hazards to the public or the environment, and whether the continued operation of oil wells will create any significant hazard to the public or the environment through reasonably foreseeable accident conditions.

Aesthetics

The Sunset Ridge Park site is considered a visual resource by the members of the Newport Crest community. The visual resources are tied into the value of the properties. The EIR should fully address the altered scenic vistas for these residents, and alternatives to impairment of the sightlines. Additionally, the “approximate six-foot high security fence” needs to be addressed with sensitivity to its appearance.

Air Quality

As the City is aware, the South Coast Air Basin is designated as “non-attainment” because the ambient air quality for the area **already** exceeds the State and National standards for the particulate matter pollutants (PM10 and PM2.5), the State standards for ozone (1 hour), and the National standards for ozone (8 hour). The EIR must carefully monitor the use of best-practice construction methods to maintain dust particles at a safe level. In terms of construction-related impacts, staging areas and dirt removal procedures need to be clearly outlined. The surrounding communities are at extreme risk in light of the Sunset Ridge Project alone, and even more so when *combined* with the development at Banning Ranch.

Given the existing hazardous air quality, the EIR should earnestly address the South Coast Air Quality Management District’s (“SCAQMD”) suggested “implementation of all feasible measures beyond what is required by law to minimize or eliminate significant adverse air quality impacts” caused by the proposed Project.

Biological Resources

If native vegetation and/or wildlife is identified on the Sunset Ridge Park acreage, the EIR should address restoration after development is complete.

Geology and Soils

As an erosion control measure, the EIR should include technical specifics on the use of pervious parking lots and roads. Also, measures to build with consideration of the natural configuration of the landscape should be outlined.

Hydrology

The EIR must address the additional runoff generated by paving parking areas and roads. Detailed information needs to be provided about planned alterations of existing drainage patterns. The use of city water for irrigation, especially of “ornamental” plantings, needs further explanation.

Noise

The increased noise for residents of the Newport Crest community generated by typical park activities needs thorough consideration in the EIR. Although the park noise levels may not exceed “accepted” standards, this is a significant concern to the residents. The community, as built, has atypical

acoustical sound patterns; any noise testing and evaluation should be conducted with that in consideration.

Public Services

The EIR should address the provision of alternative public transportation to meet the increased demand for services to this destination.

We hope you find these comments helpful. Please contact the EQAC Committee should you have any questions.

Submit by Email

Print Form

APPLICATION FOR APPOINTIVE POSITION

FOR OFFICE USE ONLY

Residence District No. _____

Verified by _____

CITY OF NEWPORT BEACH

3300 Newport Boulevard
Newport Beach, CA 92663
City Clerk (949) 644-3005
Fax (949) 644-3039

DIRECTIONS: One application can be used for all the appointive positions you are applying for. Applications should be filled out completely so that the City Council may fully evaluate your qualifications. It is the responsibility of the applicant to familiarize themselves with the duties and responsibilities of the position(s) applied for. Detailed information outlining the responsibilities of the positions can be obtained from the City Clerk's office or on the City's website: www.city.newport-beach.ca.us (General Info/Citizen Participation). Applications will be kept on file for two years for the position(s) applied for. If you are not selected for appointment during that period of time, it will be necessary for you to re-submit an application if you are still interested in being considered. **NOTICE:** Section 702 of the City Charter requires that members of Boards or Commissions appointed by the City Council shall be from the qualified electors of the City. This document is a public record and may be posted on the internet.

NAME OF BOARD, COMMISSION OR COMMITTEE: Planning; Parks, Beaches & Recreation; Civil Service and Environ. Quality Affairs

Name: Myers (Last) Jay (First) Evan (Middle)

Residence Address (required): 10 Hillsdale Drive Zip Code: 92660

How long have you lived in Newport Beach? 22 years Home Phone: (949) 759-1705

Business Address: 2 Upper Newport Plaza Drive Business Phone: (949) 752-2100

Newport Beach, CA 92660 Email Address: jay@icmyers.com

Have you ever been convicted of any crime or violation of any law or statute other than minor traffic violations?

☒ NO ☐ YES (If yes, attach separate sheet with explanation)

Name and Location of Colleges/ Universities Attended	Major	Degree	Last Year Attended
University of Wisconsin - Madison	Business & Fine Arts	BS Bus.Adm.; BFA Acting	1971
Orange Coast College	Real Estate Licensee Classes	Continuing Education	2008

CONTINUE TO PAGE TWO

Prior or Current Civic Experience (include membership in professional, charity or community organization)	Office Held (if any)	Dates of Membership
Beth Jacob Congregation of Irvine	Elected Member - Board of Directors	2001 ~ 2003
Temple Bat Yahm, Newport Beach / Appointed - Strategic Planning	& Rabbinic Search Committees	2005 ~ 2009; 2008 ~ 2009
Belcourt Master Association	Elected Member - Board of Directors	2008 ~ Present
Temple Bat Yahm, Newport Beach	Elected Member - Board of Directors	2009 ~ 2010

Occupational History. Begin with your present or most recent position. List all positions separately held for the last five years.

Firm or Organization	Type of Business	Title	Dates of Employment
Myers - Erickson Properties Inc.	R.E. Owners, Developers & Mgmt.	Vice Pres. Acquisitions	10-06 ~ Present
Paragon Luggage Inc.	Luggage Mfgr. & Wholesaler	President	08-04 ~ 06-06
Andiamo Luggage Div. - Paragon Luggage Inc.	Luggage Mfgr. & Wholesaler	President	12-02 ~ 08-04
Andiamo Inc.	Luggage Mfgr. & Wholesaler	President & Founder	05-74 ~ 12-02
Sony Corporation - Video Equipment Division	Consumer & Ind'l Video Products	Marketing Assistant	08-72 ~ 04-74

References. Include names of at least two residents of Newport Beach who are not officially connected with the City.

1. Name Address Phone No.
2. Name Address Phone No.

Summarize why you wish to serve the City of Newport Beach on a board, commission or committee. Include any special qualifications you have which are particularly appropriate to the position for which you are applying.

My 32 year entrepreneurial career as a luggage manufacturer and wholesaler with an international customer base required full-time focus and extensive travel. Coupled with the demands of raising a family I had little time for civic pursuits. In 2002 after 29 years as cofounder and president of Andiamo Inc., the O.C. based manufacturer of ANDIAMO branded travel products, I sold my business to a foreign competitor. I went on to become that company's U.S. president until resigning in spring 2006 to accomplishing a long hoped for career change. In fall 2006 I joined Myers-Erickson Properties Inc., founded by my father, Isidore Myers. Our company owns, develops and manages industrial and commercial properties throughout O.C. that are a credit to their communities. My transition was easy; throughout my luggage career I had the opportunity to participate in all the company's investments and gained substantial real estate experience.

I now have the great fortune to both live and work in Newport Beach. After decades of traveling 30% to 40% of the year nationally & internationally, I am happy that my business travel today is limited to O.C. My family is growing up; the youngest of our three daughters graduates high school in June and starts college this fall. I have reached the point in my business and personal life where I am able to devote time and effort to my community. Therefore I am applying to several boards and commissions** on which my skills and energy can enhance the community my family and I have long enjoyed. (** I have made multiple applications to the Planning Commission.)

I certify that all statements made on this application are true and correct to the best of my knowledge. I have read and understand the duties and responsibilities of the particular position(s) that I am applying for and authorize the release of this information on the internet.

[BOX MUST BE CHECKED IF SUBMITTING ELECTRONICALLY]



Signature

Date